

REMARKS/ARGUMENTS

STATUS OF CLAIMS

In response to the Office Action dated June 13, 2007, claims 4, 5, 6, 7, 8, 11 and 14 have been amended. Claims 1-19 are now pending in this application. No new matter has been added.

The indication that claims 9, 10, 12 and 13 are objected to, but would be allowable if rewritten in independent form including all the limitations of the base claim and any intervening claims is acknowledged and appreciated.

OBJECTION TO CLAIMS

Claims 4-8, 11 and 14 have been objected to as having informalities that have been identified by the Examiner.

By this Response, claims 4, 5, 6, 7, 8, 11 and 14 have been amended to correct the noted informalities and recite the invention with the particularity required by the statute. Therefore, it is respectfully urged that the objection of claims 4-8, 11 and 14 be withdrawn.

REJECTION OF CLAIMS UNDER 35 U.S.C. § 102 AND § 103

I. Claims 1-3 have been rejected under 35 U.S.C. § 102(e) as being anticipated by Bjerke et al. (U.S. 2005/0157811).

The rejections are respectfully traversed.

Anticipation, under 35 U.S.C. § 102, requires that each element of the claim in issue be found, either expressly described or under principles of inherency, in a single prior art reference. *Kalman v. Kimberly-Clark Corp.*, 713 F.2d 760, 218 USPQ 781 (Fed. Cir. 1983).

In the MIMO system disclosed in Bjerke et al., different pieces of information are transmitted simultaneously from a plurality of antennas in the same carrier frequency band. This is different from the invention recited in independent claim 1 in which the same information is transmitted simultaneously from a plurality of antennas in different carrier frequencies.

Thus, Bjerke et al. does not anticipate independent claim 1, or dependent claims 2 and 3, as each element of claim 1 is not found in Bjerke et al., either expressly described or under principles of inherency.

II. Claims 4 and 6 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Yamamoto (USPN 6,151,372).

The rejections are respectfully traversed.

In the diversity receiver disclosed in Yamamoto, transmission is performed simultaneously from a plurality of antennas in the same carrier frequency. This is different what is recited in independent claims 4 and 6 in which transmission is performed simultaneously from a plurality of antennas in different carrier frequencies.

Thus, Yamamoto does not anticipate independent claims 4 and 6 as each element of claims 4 and 6 is not found in Yamamoto, either expressly described or under principles of inherency.

III. Claims 5 and 7 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Yamamoto in view of Yamamoto et al. (USPN 6,700,865).

However, claim 5 depends directly from independent claim 4 and claim 7 depends directly from independent claim 6 and Yamamoto et al. does not remedy the deficiencies of Yamamoto. Therefore, claims 5 and 7 are patentable over Yamamoto, even when considered in view of Yamamoto et al.

IV. Claims 8, 11, 14 and 17-19 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Yamamoto in view of Multi-Carrier Multi-Antenna Group (<http://bwrc.eecs.berkeley.edu/Research/MCMA/home.htm>) (hereinafter: MCMA). The Examiner lists MCMA on the PTO-892 as having a publication date of July 5, 2002. However, this publication date does not appear on MCMA. Therefore, it is requested that the Examiner provide evidence that MCMA has a publication date of July 5, 2002.

The rejections are respectfully traversed.

In the diversity receiver disclosed in Yamamoto, transmission is performed simultaneously from a plurality of antennas in the same carrier frequency. This is different from the invention recited in claims 8, 11, 14 and 17-19 where transmission is performed simultaneously from a plurality of antennas in different carrier frequencies.

According MCMA, the data contained in the data signals transmitted from a plurality of antennas is not identical. Instead, data divided among different sub-carriers is assigned to different antennas and is transmitted in the same carrier frequency band, resulting in an increased throughput. There is no reasonable way for a person of ordinary skill in the art to combine this type of transmission (data contained in the data signals

transmitted from each of the plurality of antennas is NOT identical) with that of Yamamoto, where the data contained in the data signals transmitted from a plurality of antennas IS identical, to meet the terms of the claims.

In this regard, it should be noted that it is impermissible simply to engage in hindsight reconstruction of the claimed invention, using Applicants' structure as a template and selecting elements from references to fill in the gaps. *In re Gorman*, 18 USPQ2d 1885 (Fed. Cir. 1991).

The present rejection is an example of such impermissible hindsight reconstruction of the inventions recited in claims 8, 11, 14 and 17-19. Thus, claims 8, 11, 14 and 17-19 are patentable over Yamamoto and MCMA, considered alone or in combination.

V. Claims 15 and 16 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Yamamoto in view of Bjerke et al.

However, as claims 1, 4 and 6 are patentable over Yamamoto in view of Bjerke et al., claims 15 and 16 are patentable over Yamamoto in view of Bjerke et al. also.

VI. In view of the above, the allowance of claims 1-19, as amended, is respectfully solicited.

CONCLUSION

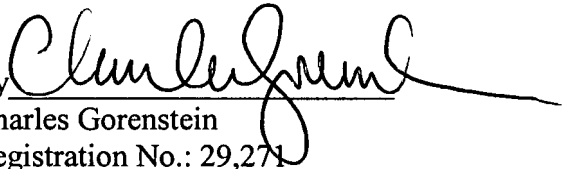
In view of the above amendment, applicant believes the pending application is in condition for allowance.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Edward J. Wise (Reg. No. 34,523) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.14; particularly, extension of time fees.

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Respectfully submitted,

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